

COMMITTEE SUBSTITUTE

FOR

H. B. 4630

(BY DELEGATE BOGGS)

(Originating in the Committee on Political Subdivision)
[February 20, 2012]

A BILL to amend and reenact chapter 196 of the Acts of the Legislature, regular session, 1963, as last amended and reenacted by chapter 206 of the Acts of the Legislature, regular session, 1967, all relating to the Braxton County Recreational Development Authority; modifying the membership of the Braxton County Recreational Development Authority; transferring certain authority from the Braxton County Board of Education to the Braxton County Commission; and requiring the approval of the Braxton County Commission and the Braxton County Board of Education on land transactions conducted by the authority.

Be it enacted by the Legislature of West Virginia:

That chapter 196 of the Acts of the Legislature, regular session, 1963, as last amended and reenacted by chapter 206 of the Acts of the Legislature, regular session, 1967, be amended and reenacted, all to read as follows:

BRAXTON COUNTY RECREATIONAL DEVELOPMENT AUTHORITY.

§1. Board of Education authorized to create Braxton County Recreational Development Authority continued.

1 The board of education of the county of Braxton is
2 hereby authorized to create and establish a public agency to
3 be known as the "Braxton County Recreational Development
4 Authority" (hereinafter called the authority), to succeed to all
5 rights, interests and authority hereinbefore vested in the
6 Braxton County Four-h Club Development Authority, The
7 Braxton County Recreational Development Authority is
8 continued for the purposes and in the manner hereinafter set
9 forth provided in this act.

**§2. Acquisition, construction, maintenance, etc. of the county
Four-H youth camps and recreational areas and
facilities.**

1 The authority is ~~hereby~~ authorized to acquire, equip,
2 construct, improve, maintain and operate county Four-H
3 youth camps and general public recreational areas and
4 facilities in Braxton County with all usual and convenient
5 appurtenances, including, but not limited to, recreational
6 facilities, such as swimming pools, tennis courts, golf courses
7 and horse riding stables; and to operate, either directly or on
8 a concession basis, any activity that is necessary or
9 convenient, customary or desirable, and related or incidental
10 to the above-mentioned camps and recreational areas and
11 facilities, including, but not limited to, hotels, restaurants and
12 gift shops.

§3. Members of the authority.

1 (a) The management and control of the authority, its
2 property, operations, business and affairs, ~~shall be~~ is lodged
3 in a board of five ~~persons who shall be known as~~ “Members
4 of the Authority” members each of whom shall be appointed

5 for a term of five years. ~~except that as to the first five~~
6 ~~appointed to the first board appointed, the term of one~~
7 ~~member shall expire on the first day of July next ensuing and~~
8 ~~the term of the next member shall expire on the first day of~~
9 ~~July two years thereafter, the term of another member shall~~
10 ~~expire on the first day of July three years thereafter, the term~~
11 ~~of another member shall expire on the first day of July four~~
12 ~~years thereafter, and the term of the remaining member shall~~
13 ~~expire on the first day of July five years thereafter.~~ After
14 June 30, 2012, as terms expire or vacancies are filled,
15 appointments shall be made by the Braxton County
16 Commission so that no more than two of these members
17 represent any one magisterial district located within Braxton
18 County.

19 (b) Effective July 1, 2012, the board shall include two
20 additional members, bringing the total board membership to
21 seven. One member shall be a member of and appointed by
22 the Braxton County Commission. One member shall be a
23 member of and appointed by the Braxton County Board of

24 Education. These members serve for five-year terms or for
25 as long as the member continues to serve on the county
26 commission or board of education, respectively, whichever
27 is shorter.

§4. Removal of members.

1 (a) The Braxton County Commission may remove a
2 member of the authority whom it appointed in the manner set
3 forth in subsection (c) of this section.

4 (b) The Braxton County Board of Education may remove
5 a member of the authority whom it appointed in the manner
6 set forth in subsection (c) of this section.

7 (c) (1) The appointing body shall notify the member
8 whom it desires to remove in writing, stating the reasons for
9 the removal.

10 (2) Within ten days of the receipt of the written notice of
11 removal, the member may request a hearing before the
12 appointing body.

13 (3) The appointing body shall hold a hearing within ten
14 days of the receipt of the member's request.

15 (4) Any member who is removed may petition the
16 Braxton County Circuit Court to review the removal action.

§5. Substitution of members.

1 If any member of the authority dies, ~~or~~ resigns, or ~~be~~ is
2 removed, or for any other reason ceases to be a member of
3 the authority, the ~~Board of Education of the county of~~
4 ~~Braxton~~ appointing body shall appoint another person to fill
5 the unexpired portion of the term of ~~such~~ the member.

§6. Qualification of members. ~~of the Authority~~

1 All members ~~of the board of the authority shall~~ must be
2 ~~citizens of West Virginia, over thirty years of age and~~
3 residents of Braxton County and of legal voting age.

§7. Payment of expenses of members.

1 No member ~~of the board of the authority shall~~ may
2 receive any compensation, whether in form of salary, per
3 diem allowances or otherwise, for or in connection with his
4 ~~or her~~ service as a member. Each member ~~shall~~, however, be
5 is entitled to reimbursement by the authority for any
6 necessary expenditures in connection with the performance
7 of his ~~or her~~ general duties as ~~such~~ a member.

§8. Public corporation.

1 The authority ~~when created, and the members thereof,~~
2 ~~shall constitute and be~~ is a public corporation ~~under~~ with the
3 name of "Braxton County Recreational Development
4 Authority" and as such ~~shall have~~ has perpetual succession,
5 may contract and be contracted with, sue and be sued, plead
6 and be impleaded and have and use a common seal.

§9. Powers generally.

1 (a) The authority ~~is hereby given power and authority as~~
2 follows may:
3 (1) ~~To~~ Make and adopt all necessary bylaws, rules and
4 regulations for its organization and operation not inconsistent
5 with law;
6 (2) ~~To~~ Elect its own officers, to appoint committees and
7 to employ and fix the compensation for personnel necessary
8 for its operation;
9 (3) ~~To~~ Enter into contracts with any person,
10 governmental department, firm or corporation, including both
11 public and private corporations, and generally to do any and

12 all things necessary or convenient for the purpose of
13 acquiring, equipping, constructing, maintaining, improving,
14 extending, financing and operating county youth camps and
15 general public recreational areas and facilities and all usual
16 and convenient appurtenant activities and facilities in
17 Braxton County, West Virginia, including, but not limited to,
18 those enumerated in section two hereof of this act;

19 (4) To Delegate any authority given to it by law to any of
20 its officers, committees, agents or employees;

21 (5) To Apply from, receive and use grants-in-aid,
22 donations and contributions from any source or sources,
23 including, but not limited to, the federal government and any
24 agency thereof of the federal government, and the State of
25 West Virginia, and to accept and use bequests, devises, gifts
26 and donations from any person, firm or corporation;

27 (6) To Acquire lands and hold title thereto in its own
28 name;

29 (7) To Purchase, own, hold, sell and dispose of personal
30 property and to sell, lease or otherwise dispose of any real
31 estate which it may own;

32 (8) To Borrow money and execute and deliver negotiable
33 notes, mortgage bonds, other bonds, debentures, and other
34 evidences of indebtedness therefor, and give ~~such~~ security
35 therefor as ~~shall be~~ is requisite, including giving a mortgage
36 or deed of trust on its property and facilities in connection
37 with the issuance of mortgage bonds;

38 (9) To Raise funds by the issuance and sale of revenue
39 bonds in the manner provided by the applicable provisions of
40 article ~~four-a~~ sixteen, chapter eight of the Code of West
41 Virginia, one thousand nine hundred thirty-one, as amended,
42 it being hereby expressly provided that the authority is a
43 “municipal authority” within the definition of that term as
44 defined in section two, article one, chapter eight of the Code
45 of West Virginia, and used in ~~said~~ article ~~four-a~~ article
46 sixteen, chapter eight of the code; and

47 (10) To Expend its funds in the execution of ~~the~~ its
48 powers and authority. ~~herein given~~

49 (b) The buying, selling, trading of land must have a
50 majority vote of the Braxton County Commission, the

51 Braxton County Board of Education, and the five members
52 of the Braxton County Recreational Development Authority
53 appointed under subsection (a), section three of this act.

§10. Indebtedness of the authority.

1 The authority may incur any proper indebtedness and
2 issue any obligations and give any security ~~therefor~~ which it
3 ~~may deem~~ considers necessary or advisable in connection
4 with carrying out its purposes. ~~as hereinbefore mentioned~~ No
5 statutory limitation with respect to the nature or amount of
6 indebtedness which may be incurred by municipalities or
7 other public bodies ~~shall apply~~ applies to indebtedness of the
8 authority. No indebtedness of any nature of the authority
9 ~~shall constitute~~ is an indebtedness of the ~~County court of the~~
10 ~~county of~~ Braxton County Commission, nor of ~~said the~~
11 county nor of ~~said the~~ board of education, or a charge against
12 any property of ~~said the~~ county or board. No obligation
13 incurred by the authority ~~shall give~~ gives any right against
14 any member or the ~~County court of the~~ county of Braxton
15 County Commission or any member of the ~~said~~ board of

16 education or any member of the board or authority. The
17 rights of creditors of the authority ~~shall be~~ are solely against
18 the authority as a corporate body and ~~shall~~ may be satisfied
19 only out of property held by it in its corporate capacity.

§11. Agreements in connection with obtaining funds.

1 The authority may, in connection with obtaining funds
2 for its purpose, enter into any agreement with any person,
3 firm or corporation, including the federal government, or any
4 agency or subdivision thereof of the federal government,
5 containing ~~such~~ provisions, covenants, terms and conditions
6 as ~~the authority may deem it considers~~ advisable.

§12. Property, bonds and obligations of authority exempt from taxation.

1 The authority ~~shall be~~ is exempt from the payment of any
2 taxes or fees to the state or any subdivisions thereof of the
3 state or to any officer or employee of the state or of any
4 subdivisions thereof of the state. The property of the
5 authority ~~shall be~~ is exempt from all local and municipal
6 taxes. Bonds, notes, debentures and other evidence of

7 indebtedness of the authority are declared to be issued for a
8 public purpose and to be public instrumentalities and,
9 together with interest thereon, ~~shall be~~ are exempt from taxes.

§13. County ~~court~~ commission authorized to convey properties and facilities to authority.

1 The ~~court of the county of~~ Braxton County Commission
2 is ~~hereby~~ authorized to convey to the ~~newly created~~ authority
3 property owned by ~~the county of~~ Braxton County, together
4 with all the appurtenances and facilities therewith, ~~such the~~
5 conveyance to be without consideration or for ~~such a~~ price
6 and ~~upon such~~ with terms and conditions as the ~~court of the~~
7 ~~county of Braxton shall deem~~ Braxton County Commission
8 considers proper.

§14. Property and facilities may be leased to the ~~court of the county of~~ Braxton County Commission, the ~~Braxton County Board of Education of Braxton county or others.~~

1 The authority may lease the property on which ~~such the~~
2 camp or camps and facilities are situated, in whole or in part,
3 and all the appurtenances and facilities therewith, to the ~~court~~
4 ~~of the county of~~ Braxton County Commission, to said the

5 Braxton County Board of Education of ~~Braxton county~~ or to
6 any other available lessee or lessees at such rental and upon
7 such terms and conditions as the authority ~~shall deem~~
8 considers proper. If the authority determines to lease the
9 property and its appurtenances and facilities, as a whole, it
10 shall first offer the same to the ~~County court of the county of~~
11 Braxton County Commission upon an annual lease and it
12 ~~shall~~ may not lease ~~said~~ the property and its appurtenances
13 and facilities as a whole to any other lessee until the ~~County~~
14 ~~court of the county of~~ Braxton County Commission has
15 notified the authority that it does not desire to lease said
16 properties, which notice shall be given within thirty days
17 after notice by the authority of a desire on its part to lease the
18 property as a whole. The ~~county court of the county of~~
19 Braxton County Commission is ~~hereby~~ authorized to enter
20 into a lease with the authority for ~~said~~ the property and
21 appurtenances and facilities at such rental and upon such
22 terms and conditions as it ~~shall deem~~ considers proper, and
23 the ~~county court of the county of~~ Braxton County

24 Commission ~~is hereby authorized to~~ may levy taxes as
25 provided by law for the purpose of paying the rent for ~~said~~
26 the property, appurtenances and facilities. The authority,
27 however, may lease one or more portions of its property
28 without first offering the same to the ~~county court of the~~
29 county of Braxton Such County Commission. The lease shall
30 be for some purpose associated with recreational or other
31 related activities.

§15. Disposition of surplus of authority.

1 If the authority should realize a surplus, whether from
2 operating the property or leasing it for operation, over and
3 above the amount required for the maintenance, improvement
4 and operation thereof and for meeting all required payments
5 on its obligations, is shall set aside ~~such a~~ reserve for future
6 operations, improvements and contingencies as it ~~shall deem~~
7 considers proper and ~~shall~~ then apply the residue of ~~such the~~
8 surplus, if any, to the payment of any recognized and
9 established obligations not then due; and after all ~~such its~~
10 recognized and established obligations have been paid off

11 and discharged in full, the authority shall, at the end of each
12 fiscal year, set aside the reserve for future operations,
13 improvements and contingencies, ~~as aforesaid~~, and then pay
14 the residue of ~~such the~~ surplus, if any, to the ~~county court of~~
15 ~~the county of Braxton County Commission~~ to be used by ~~said~~
16 ~~the county court commission~~ for general county purposes. ~~or~~
17 ~~to the Board of Education of Braxton county for educational~~
18 ~~purposes as the authority may deem proper.~~

§16. Contributions; funds and accounts; publication of annual report.

1 Contributions may be made to the authority from time to
2 time by the ~~county court of the county of Braxton County~~
3 ~~Commission, the Braxton County~~ Board of Education of
4 ~~Braxton county~~, the federal government, and by any persons,
5 firms or corporations that ~~shall~~ desire to do so. All ~~such~~
6 ~~those~~ funds and all other funds received by the authority shall
7 be deposited in ~~such a~~ bank or banks as the authority ~~may~~
8 ~~direct directs~~ and shall be withdrawn ~~therefrom in such~~
9 ~~manner as the authority may direct directs.~~ The authority

10 shall keep strict account of all its receipts and expenditures
11 and shall each quarter make a report to the ~~Board of~~
12 ~~Education of the county of Braxton~~ County Commission
13 containing an itemized account of its receipts and
14 disbursements during the preceding quarter. ~~Such~~ The report
15 shall be made within ~~sixty~~ thirty days after the termination of
16 the quarter. Within ~~sixty~~ thirty days after the end of the fiscal
17 year, the authority shall make an annual report containing an
18 itemized statement of its receipts and disbursements for the
19 preceding year and ~~such~~ the annual report shall be published
20 once a week for two successive weeks in two newspapers or
21 opposite politics published in Braxton County, West
22 Virginia, if there ~~be~~ are two such papers, or otherwise in any
23 newspaper of general circulation in ~~said~~ the county. The
24 books, records and accounts of the authority ~~shall be~~ are
25 subject to audit and examination by the ~~office of the state tax~~
26 ~~commissioner~~ of West Virginia State Auditor, acting as the
27 Chief Inspector and by any other proper public official or
28 body in the manner provided by law.

§17. Employees to be covered by ~~workermen's~~ workers' compensation.

1 All employees of the authority eligible thereunder shall
2 ~~be deemed to be within the workmen's compensation act of~~
3 West Virginia and premiums shall be paid by the authority to
4 the workmen's compensation fund as required by law. The
5 authority is an employer subject to the requirements of
6 chapter twenty-three of the Code of West Virginia.

§18. Dissolution of authority.

1 The authority may at any time pay off and discharge in
2 full all of its indebtedness, obligations and liabilities, convey
3 its properties, appurtenances and facilities to the Board of
4 Education of the county of Braxton County Commission and
5 be dissolved. Before making such conveyance of its
6 properties, the authority shall first publish notice of its
7 intention so to do and of its intention to be dissolved, once a
8 week for four successive weeks in two newspapers of
9 opposite politics published in, and of general circulation in
10 Braxton County, West Virginia, if there ~~be~~ are two such

11 papers, or otherwise in any newspaper of general circulation
12 in ~~said the~~ county. Certificates from the publishers shall be
13 filed with the ~~Board of Education of the county of~~ Braxton
14 County Commission on or before the deed conveying ~~said the~~
15 properties is delivered. Any funds remaining in the hands of
16 the authority at the time of the conveyance of ~~said the~~
17 properties shall be ~~by the authority~~ paid over to the ~~Board of~~
18 ~~Education of the county of~~ Braxton County Commission to
19 be used by it for purposes in connection with ~~said the~~
20 properties. Upon the payment of its indebtedness,
21 obligations and liabilities, the publishing of the notices
22 aforesaid, the conveyance of its properties and the paying
23 over to the ~~Board of Education of the county of~~ Braxton
24 County Commission of any funds remaining in its hands, the
25 authority shall cause a certificate showing its dissolution to
26 be executed under its name and seal and to be recorded in the
27 office of the clerk of the ~~court of~~ Braxton County
28 Commission and thereupon its dissolution shall be complete.

§19. Construction of act; additional powers of board of education and county court commission.

1 It is the purpose of this act to provide for the acquisition,
2 construction, improvement, extension, maintenance and
3 operation of a camp or camps and recreational facilities and
4 appurtenant facilities in a prudent and economical manner.
5 and This act shall be liberally construed as giving to the
6 authority full and complete power reasonably required to
7 give effect to ~~the~~ its purposes. ~~thereof~~ The provisions of this
8 act are in addition to and not in derogation of any power
9 existing in the Braxton County Board of Education and the
10 ~~court of the county of~~ Braxton County Commission under
11 any constitutional or statutory provisions which they may
12 now have, or may ~~hereafter~~ acquire.

§20. Provisions severable.

1 The several sections and provisions of this act are
2 severable, and if any section or provision ~~hereof shall be of~~
3 this act is held unconstitutional, all the remaining sections
4 and provisions of this act shall nevertheless remain valid.

NOTE: The purpose of this bill is to modify the membership of the Braxton County Recreational Development Authority and to require the approval of the Braxton County Commission and the Braxton County Board of Education on land transactions conducted by the authority.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.